IN THE HIGH COURT OF GUJARAT AT AHMEDABAD


SPECIAL CIVIL APPLICATION No 4319 of 1997



For Approval and Signature:

Hon'ble  MR.JUSTICE R.K.ABICHANDANI
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1.      Whether  Reporters  of  Local Papers may be allowed
        to see the judgements?


2.      To be referred to the Reporter or not?


3.      Whether Their  Lordships  wish to see the fair copy
        of the judgement?


4.      Whether  this  case involves a substantial question
        of law as to the interpretation of the Constitution
        of India, 1950 of any Order made thereunder?


5.      Whether  it is to be circulated to the Civil Judge?
   1 - Yes     2 to 5  -  No
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        DHULABHAI KANABHAI BHARVAD
Versus
        STATE OF GUJARAT
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        Appearance:
            MR MG NAGARKAR for Petitioner
            MR.DA TRIVEDI, AGP, for the respondents
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        CORAM :  MR.JUSTICE R.K.ABICHANDANI
        Date of decision: 04/07/97

ORAL JUDGEMENT
 Rule. The learned  counsel  for  the  respondents
        waives service of rule. At the instance of both the sides
        the matter is taken up for final disposal.

         The  petitioner  seeks  a   direction   on   the
        respondents  to  release the vehicle bearing registration
        No.  GRZ 2050 on the strength of the interim  order  made
        by  the  Collector  on  21.5.1997  at  Annexure-B to the
        petition.  After the order was made by the Collector  for

handing over the vehicle to the petitioner on the conditions mentioned in that order the petitioner approached the Special Judge by filing Criminal Miscellaneous Application No. 448 of 1997 under the provisions of Section 451, 457 of the Criminal Procedure Code for return of the muddamal vehicle which was seized by the police in connection with the offences under Sections 3 and 7 of the Essential Commodities Act, 1955. The Second Joint District Judge, Ahmedabad (Rural) rejected that application on the ground that under Section 6E of the said Act since the proceedings under Section 6A had already commenced the Collector alone had jurisdiction to order the delivery of the vehicle and therefore the court had no jurisdiction in the matter.

Under Section 6E of the said Act it is inter alia provided that whenever any vehicle used in carrying the essential commodity is seized pending confiscation under Section 6A, the Collector shall have, notwithstanding anything to the contrary contained in any other law for the time being in force, any court shall not have jurisdiction to make orders with regard to the possession, delivery, disposal or release of such vehicle. In the present case, the Collector had exercising his powers under Section 6E of the said Act already passed an interim order for handing over the said vehicle to the petitioner on the conditions mentioned in the order dated 21.5.1997. Therefore, when the petitioner approached the Special Court having been armed with the order of the Collector under Section 6E of the said Act, there was no question of the court giving delivery of the vehicle but it was the question of the court recognising the order made by the Collector under Section 6E and only implementing it by allowing delivery of the vehicle being given to the petitioner pursuant to that order. Under these circumstances, the petitioner having become entitled to get the possession of the vehicle under the interim order of the Collector made on 21.5.1997 on the conditions mentioned therein, it is directed that the delivery of the said vehicle be handed over to the petitioner on the basis of the order of the Collector on the conditions mentioned therein and on the petitioner's filing an undertaking before the Special Judge's court to produce the said vehicle in connection with the offences for which he is being tried as and when so ordered by the court. The petitioner's right to retain the vehicle on the basis of the interim order made by the Collector will obviously depend upon the order that may be made by the Collector under the said Act and this order of the court will not entitle him to retain the vehicle if the Collector revokes his interim order or

makes any further order which may be inconsistent with the petitioner's keeping the vehicle with him. Rule is made absolute accordingly with no order as to costs.

(R.K. ABICHANDANI, J)

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